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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/586,550
Filing Date: May 31, 2000
Appellant(s): BENZINGER ET AL.

MAILED

AUG 11 2004

GROUP 3600

Kevin J. Zilka
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 30, 2004.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-4, 6, 7, 9, 11-14, 16, 17 and 19-20 (Group 1, first issue), claim 21 (Group 2, first issue), claim 22 (Group 3, first issue), claim 23 (Group 4, first issue) and claims 5 & 15 (Group 1, second issue) do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,167,378	Webber, Jr.	12-26-2000
5,745,652	Bigus	04-28-1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4, 6, 7, 9, 11-14, 16, 17 and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by the Webber, Jr. patent. This rejection is set forth in a prior Office Action, mailed on 10-22-03 and herein repeated:

The Webber, Jr. patent discloses a method and the associated apparatus for dynamic adaptation of a system in accordance with a contract with criteria associated therewith, the method comprising:

governing a security related interaction between a plurality of components utilizing the criteria of the contract, the components including an intrusion detection

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module which is subject to the governing (col. 5, lines 4-15 and col. 8, lines 59-65), determining whether the security related interaction between the components meets the criteria (col. 7, lines 21-6, col. 9, lines 53-56 and col. 15, lines 13-24), and adapting the security related interaction between the components upon the criteria of the contract not being met (col. 12, lines 5-11 – deviation resolution- and col. 15, lines 13-24) (claims 1, 11 & 21);

the security related interaction between the components is adapted by adjusting the contract (col. 6, lines 37-67 and col. 7, lines 21-26) (claims 2 & 12);

the contract is adjusted by a method selected from the group consisting of deactivation of the contract, modification of the contract, deletion of the contract, and activation of a different contract (col. 8, lines 65-67)(claims 3 & 13);

the contract including a cost model criteria (col. 13, lines 24-28 and col. 14, lines 4-24)(claims 4 & 14);

the criteria is based on performance and service provisioning (col. 14, lines 4-24)(claims 6, 7, 16 & 17);

the components including the intrusion detection module and an analysis module (col. 14, lines 4-24 and col. 15, lines 25-43)(claims 9 & 19);

governing a security related interaction between a plurality of components utilizing the criteria of the contract, the components including a plurality of intrusion detection modules, and at least one firewall which is subject to the governing (col. 5, lines 4-15, col. 8, lines 59-65 and col. 14, lines 4-11), determining whether the security related interaction between the components meets the criteria utilizing an analysis module (col. 7, lines 21-6, col. 9, lines 53-56 and col. 15, lines 13-24), and adapting the

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security related interaction between the components upon the criteria of the contract not being met utilizing the analysis module (col. 12, lines 5-11 – deviation resolution-, col. 14, lines 4-24 and col. 15, lines 13-43) wherein the security related interaction between the components is adapted by adjusting the contract by a method selected from the group consisting of deactivation of the contract, modification of the contract, deletion of the contract, and activation of a different contract (col. 8, lines 65-67)(claim 21);

wherein the intrusion detection modules are adapted for communicating information to the analysis module for detecting intrusions (col. 14, lines 44-67 and col. 15, lines 1-4)(claim 22); and

information includes generalized intrusion detection objects (col. 15, lines 1-4)(claim 23).

Claims 5 and 15 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on 10-22-03, and herein repeated:

Claims 5 and 15 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the Webber, Jr. patent, as applied above, and further in view of the Bigus patent (5,74,652). The Webber, Jr. patent discloses all the elements of the presently claimed invention, however the combination lacks the cost model criteria being based on resource utilization.

The Bigus '652 patent teaches the cost model criteria being based on resource utilization (col. 1, lines 42-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Webber, Jr. method with the

teaching of the cost model criteria of the Bigus '652 patent so as to economically maximize the effectiveness of the computer system.

(11) Response to Argument

With regards to claims 1-4, 6, 7, 9, 11-14, 16, 17 and 19-23, the Applicant argues that the Webber reference fails to teach any sort of governing of a security-related interaction involving an intrusion detection module utilizing the criteria of the contract. (Appellant's brief, page 6, lines 1-3). The Webber reference does disclose a system that governs a security-related interaction between a plurality of components in the system utilizing the criteria of the contract, the components including an intrusion detection module as presently claimed. In Webber, the CAP (communications and activity platform) is such a component. The Webber patent defines the CAP as "designed in modular fashion so that each function is a separate independent subsystem. These independent subsystems include: security and firewalls, . . ." (Webber, col. 14, lines 4-11). As such the CAP has a subsystem that performs security functions, hence a security module.

The Applicant's specification states that "the intrusion detection modules 608 are capable of communicating information being sent to and received from components behind and beyond the firewall 606 for the purposes of detecting intrusions and anomalies in the system." (Applicant's specification, page 11, lines 19-22). The Webber patent discloses that "[e]ncryption or security 281, 283 may be included in the communication link 259 between the CAP and the selling entities in the supply chain,

and between the CAP 260 and the supply chain enterprises 277, respectively.” (Webber, col. 14, lines 44-47).

Webber further states that “security is preferably provided on the CAP, as is illustrated in Fig. 2. For example, a seller’s POS data are assigned an encrypted transactional identifier when transmitted by the computer at the seller to the CAP, thus inhibiting tampering or modification . . . a different level of security can be provided for each of the above, utilizing conventional security protocols and methods.” (Webber, col. 14, line 59 through col. 15, line 3). Wherein the POS data refers to the Point of Sale data. The Applicant identifies that the intrusion detection modules “periodically send and receive generalized intrusion detection objects (GIDOS) which are data structures with information that may include, but not be limited to IP addresses of sources of the information, . . . an identifier of the host machine. . .” (Applicant’s specification, page 11, line 24 through page 12, line 6). As such, the intrusion detection module of the Applicant’s system sends and receives information regarding the addresses of sources of information as well as the identifier of a host machine. While the Webber system provides security by assigning encrypted transactional identifiers to the seller’s POS data when transmitted. The Examiner understands these two systems as being the same and as such, the Webber system does have an intrusion detection module as presently claimed.

Claim 21 specifically refers to a plurality of intrusion detection modules, and at least one firewall. Webber discloses a plurality of detection modules, encryption and security means 281, 283, as well as a firewall (col. 12, lines 26-28).

Claim 22 is directed to the intrusion detection modules as communicating information to the analysis module for detecting intrusions. Webber specifically states,

“Encryption and security 281, 283 may be included in the communication link 259 between the CAP and the selling entity in the supply chain, and between the CAP 260 and the supply chain enterprises 277.” (Webber, col. 14, lines 44-47). Thus, Webber does disclose intrusion detection modules as communicating information for detecting intrusions.

Claim 23 is primarily directed to the information including generalized intrusion detection objects. The Applicant has defined such generalized detection objects as being data structures with information, as discussed above. Webber discloses data structures with information in its discussion of security with regard to the seller’s POS data, (see above and Webber, col. 14, line 59 through col. 15, line 3). The limitation of the present application does not distinguish the claimed invention from that which is disclosed in Webber and as such is anticipated by Webber.

With regard to claims 5 and 15, the Applicant’s invention claims the cost model criteria as being based on resource utilization. The Bigus patent teaches a system wherein “one of the major functions performed by the computer operating system is resource allocation. Resource allocation involves giving the user jobs access to the computer system’s resources, such as the central processing unit (CPU), main memory, input/output devices, etc. (Bigus, col. 1, lines 42-48). The Applicant asserts the Examiner has failed to show that the prior art reference teaches or suggests resource utilization in the specific context of cost model criteria, as claimed by the Applicant. (Appellant’s Brief, page 10, third paragraph). The Webber patent discloses a computer system that performs numerous functions. The Bigus patent teaches a resource allocation

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feature for computers that perform numerous functions so as to maximize the amount of work” a computer system can perform. (Bigus, col. 1, lines 34-35). The Bigus system is designed to “provide an enhanced method and apparatus for allocating resources in a system which performs useful work” and “to provide a technique for constructing a unique computer system performance model for *any* computer system, regardless of hardware and software configuration or workload.” (Bigus, col 2, lines 32-34 and 53-56). As such, since the Webber patent discloses a computer system that performs various types and amounts of work, and the Bigus patent is designed to work on any type of computer system, it is would have been obvious to one of ordinary skill in the art to modify the Webber system by using the resource allocation teachings of the Bigus patent so as to increase productivity and efficiency thus maximizing the effectiveness of the Webber system. Bigus specifically states it can be used with any type of computer system. Therefore, since Webber shows a computer system that performs various types of functions, it would benefit from some form of resource allocation to prioritize and model such functions in the most efficient manner, which is what Bigus teaches. Hence, the combination of Webber with Bigus is proper and renders the Applicant’s claimed invention obvious.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,



Sandra S. Snapp
August 5, 2004

Conferees:



Vincent Millen
SPE Art Unit 3624

RICHARD WEISBERGER
PRIMARY EXAMINER

Richard Weisberger
Primary Examiner
Art Unit 3624

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600